

EXHIBIT NO. 4DATE 1/23/09BILL NO. SB 191

Amendments to Senate Bill No. 191
1st Reading Copy

Requested by Senator Larry Jent

For the Senate Judiciary Committee

Prepared by Valencia Lane

January 23, 2009 (7:39am)

EXEMPTS
NEW SURCHARGE
FROM:

- OPEN CONTAINER
- DAYTIME SPEEDING
- SEAT BELT

1. Title, line 7.

Following: "NEEDS;"

Insert: "AMENDING SECTIONS 61-8-460, 61-8-725, AND 61-13-104,
MCA;"

2. Page 3, line 6.

Following: line 5

Insert: "Section 3. Section 61-8-460, MCA, is amended to read:

"61-8-460. Unlawful possession of open alcoholic beverage container in motor vehicle on highway. (1) Except as provided in subsection (2), a person commits the offense of unlawful possession of an open alcoholic beverage container in a motor vehicle if the person knowingly possesses an open alcoholic beverage container within the passenger area of a motor vehicle on a highway.

open
containers

(2) This section does not apply to an open alcoholic beverage container:

(a) in a locked glove compartment or storage compartment;

(b) in a motor vehicle trunk or luggage compartment or in a truck bed or cargo compartment;

(c) behind the last upright seat of a motor vehicle that is not equipped with a trunk;

(d) in a closed container in the area of a motor vehicle that is not equipped with a trunk and that is not normally occupied by the driver or a passenger; or

(e) in the immediate possession of a passenger:

(i) of a motor vehicle, including a bus, taxi, or limousine, that is used for the transportation of persons for compensation and that includes the provision of a hired driver; or

(ii) in the living quarters of a camper, travel trailer, or motor home.

(3) (a) A person convicted of the offense of unlawful possession of an open alcoholic beverage container in a motor vehicle shall be fined an amount not to exceed \$100.

(b) A violation of this section is not a criminal offense within the meaning of 3-1-317, 3-1-318, [section 1], 45-2-101, 46-18-236, 61-8-104, and 61-8-711 and may not be recorded or charged against a driver's record, and an insurance company may not hold a violation of this section against the insured or

increase premiums because of the violation. The surcharges provided for in 3-1-317, 3-1-318, [section 1], and 46-18-236 may not be imposed for a violation of this section."

{ Internal References to 61-8-460:

ok 61-8-461 }"

Insert: "Section 4. Section 61-8-725, MCA, is amended to read:

"61-8-725. Penalty for violation of speed limits -- no record for certain violations. (1) A person violating the speed limit imposed pursuant to 61-8-303 shall be fined in accordance with the following schedule:

Amount of Fine MPH in Excess of Speed Limit

\$ 20 1 - 10 (daytime)

20 1 - 10 (nighttime)

40 11 - 20

70 21 - 30

100 31+

(2) A violation of a speed limit imposed pursuant to 61-8-303 is not a criminal offense within the meaning of 3-1-317, [section 1], 45-2-101, 46-18-236, 61-8-104, and 61-8-711 and, except as provided in subsection (4), may not be recorded or charged against a driver's record, and an insurance company may not hold a violation of a speed limit against the insured or increase premiums because of the violation if the speed limit is exceeded by no more than:

(a) 10 miles an hour during the daytime; or

(b) 5 miles an hour during the nighttime.

(3) The surcharge provided for in 3-1-317 or [section 1] may not be imposed for a violation of 61-8-303.

(4) The recordkeeping restrictions provided in subsection (2) with respect to a person's driving record do not apply to a speed limit violation or conviction that was committed by:

(a) a Montana resident in another state whose violation or conviction was reported to the department by a court or the licensing authority in the state in which the violation occurred; or

(b) a person who holds a commercial driver's license regardless of whether or not the violation occurred while the person was operating a commercial motor vehicle."

{ Internal References to 61-8-725:

ok 61-11-203 }"

Insert: "Section 5. Section 61-13-104, MCA, is amended to read:

"61-13-104. Penalty -- no record permitted. (1) A driver who violates 61-13-103 shall be fined \$20, but the violation is not a misdemeanor pursuant to [section 1], 45-2-101, 46-18-236, 61-8-104, or 61-8-711. A violation of 61-13-103 may not be counted as a moving violation for purposes of suspending a driver's license under 61-11-203(2)(m). Bond for this offense is \$20, and a jail sentence may not be imposed.

(2) A violation of 61-13-103 may not be recorded or charged against the driver's record of a person violating 61-13-103.

Daytime
Speeding

Seat
Belt

(3) An insurance company may not hold a violation of 61-13-103 against the insured or increase the insured's premiums due to a violation of 61-13-103."

{ Internal References to 61-13-104:

ok 61-13-105 }"

Renumber: subsequent sections

- END -